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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,777	11/12/2003	Terrence W. Schmidt	1934-7-3	7411

7590 10/15/2007  
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EXAMINER
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VASUDEVA, AJAY

ART UNIT	PAPER NUMBER
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3617

MAIL DATE	DELIVERY MODE
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10/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/712,777	Applicant(s) SCHMIDT ET AL.	
	Examiner Ajay Vasudeva	Art Unit 3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-8, 19-25, 28, 31 and 44-49 is/are pending in the application.
- 4a) Of the above claim(s) 25 and 44-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-8, 19-24, 28 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of Invention A, Species 2 (claims 3-8, 19-24, 28 and 31) in the reply filed on 6/21/2007 is acknowledged. Claims 25 and 45-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim.

The traversal is on the ground(s) that claims 3-8, 19-25, 28, 31 and 44-47 recite similar subject matter, and the examiner can perform a single search and examination that will cover all of the claims without serious burden.

This argument is not found persuasive. Regarding the restriction requirement on Species 1 and Species 2 of Invention A, a different combination of search terms and strategies is required to search for each of the species, which clearly constitutes a serious burden. Further, Species 1 is considered to be patentably distinct from Species 2, and Applicant has not provided any evidence to prove it otherwise.

Note: Applicant is reminded, however, that upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species (i.e., claims directed to a mono-hulled water vessel) which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

Further, regarding the restriction requirement on Invention A and Invention B, the process as claimed in claims 44-49 can be practiced with another materially different product, such as an aircraft or a spacecraft comprising a mission module accommodated in a bay, wherein the product does not necessarily have to be a water vessel claimed in claim 19. This would require an additional search in class 244, which is clearly a serious burden.

The requirement is still deemed proper and is therefore made FINAL.

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***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-8, 19-24, 28 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, the limitation "the equipment, supplies and resources" is vague and confusing. It is not clear whether the "equipment and supplies" are distinct from, or a part of, the "resources". Similarly, it is not clear whether the "equipment" is same or different from the "supplies" recited in the claim.

Applicant is requested to provide a clarification and/or correction. However, it should be noted that no new matter is permitted.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 3-8, 19-24, 28 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by FR 2618121 ('121).

FR '121 shows a vessel [6] with a bay disposed in a frame (figure 1). The bay is operable to receive a mission module [1]. The specific mission of the module is to provide equipment and resources for the accommodation/seating of the crew and/or passengers. The

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vessel and the module are interconnected at an interface through internal passages (fig. 5a and fig. 5b). The interface is capable of allowing a releasable coupling of the module – and the module's equipment and resources -- with the vessel. A mounting structure [5] is used to releasably hold the mission module in the bay (fig. 1). While the mission module is coupled with the vessel, the module's equipment and resources enable the vessel to perform the specific mission of accommodating/seating the crew and/or the passengers. The vessel is not enabled to perform the specific mission when the module is not coupled with the vessel. The limitation "configured to" has been interpreted to mean "capable of".

Re claim 3-7, the interface is capable of allowing a physical transfer of fuel, water, and electrical power, as well as telecommunication signals between the vessel and the module. Therefore, the interface is considered as operable to facilitate the exchange of fuel, water etc. between the frame and the module.

Re claim 8, the rudder is considered to be a foil (figures 1 and 7b). As such, the vessel has a foil-assisted hull.

The limitation "mission module is configured to" has been interpreted to mean "mission module is capable of". Re claims 20-22, the mission of accommodation/seating of the crew and/or passengers can be considered to be a special operation mission.

Re claim 23, the module includes an antenna (fig. 4a).

Re claim 24, the deck structure shown in fig. 1 can be considered to be a ramp.

Re claim 31, fig 7a shows a multi hulled vessel.

As noted in the previous Office action, the claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function (see MPEP 2114). If the prior art discloses all claimed structural limitations and is capable of performing the recited function, it meets the requirements of the claim.

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***Response to Arguments***

6. Applicant's arguments with respect to claims 3-8, 19-24, 28 and 31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. The prior art made of record in the attached PTO Form 892, but not yet relied upon, is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva  
Primary Examiner  
Art Unit 3617

*Ajay Vasudeva*  
9/05/07